

## **Incapacity Ordinance 2002**

### **Explanatory Statement**

#### **Introduction**

1. The purpose of the proposed ordinance is to provide a procedure for the suspension or revocation of the licence of a minister on the grounds of physical or mental incapacity.

#### **Background**

2. The Incapacity and Inefficiency Ordinance 1906 (the "1906 Ordinance") provided a procedure for the revocation of the licence of a minister found to be "incapable" or "inefficient". The terms "incapable" and "inefficient" were not defined in the ordinance.

3. The 1906 Ordinance was rarely used, but circumstances in the parish of Pymble from 1993 to 1994 showed that the meaning of the term "incapacity" was a matter of dispute. Many thought that the term was restricted to mental or physical incapacity, but the Pymble matter showed that it also covered incapacity to exercise pastoral leadership on other grounds.

4. In response to the Pymble matter, in 1994 the Synod appointed a Select Committee to examine the issue of clerical enquiries. The Select Committee reported in 1997 and its report is printed on pages 386 to 398 of the 1998 Year Book. Among other things, the Select Committee recommended that the provisions of the 1906 Ordinance in relation to incapacity should be limited to cases of mental and physical incapacity, and that situations involving pastoral disputes between a minister and his parishioners (including disputes arising from inefficiency) were best resolved through a dispute resolution procedure.

5. Subsequently, the Parish Disputes Ordinance 1999 was made by the Synod to put in place a dispute resolution procedure for disputes between a minister and his parishioners.

6. The Select Committee also recommended a proposed Incapacity Ordinance to deal with cases of mental and physical incapacity. Consideration of the proposed ordinance has been deferred at subsequent Synod sessions.

#### **Subsequent Events**

7. In 1997, on the Select Committee's recommendation, the Synod appointed a second committee to review the issue of clerical tenure. That committee reported to the Synod in 1999 and its report is printed on pages 447 to 474 of the 2000 Year Book.

8. Among other things, the second committee concluded that it was inappropriate that the 1906 Ordinance be used to resolve breakdowns in pastoral relationship between a minister and his parishioners, and recommended a new system of licensing review to address that situation.

9. The Parish Relationships Ordinance 2001 was made by the Synod to put in place a procedure for licensing review. Under that ordinance, the 1906 Ordinance was repealed.

**The proposed ordinance**

10. The proposed ordinance is generally in the form of the ordinance recommended by the Select Committee which reported in 1997. It seeks to provide a procedure for the revocation of the licence of a minister on the grounds of physical or mental incapacity.

For and on behalf of the Standing Committee

MARK PAYNE  
*Diocesan Secretary*

14 August 2002